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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,783	12/20/2004	Naoki Yoshida	SONY JP 3.3-309	3164
530 7590 12/10/2008 LERNER, DAVID, LITTENBERG, KRUMHOLZ & MENTLIK 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090				
EXAMINER RABOVIANSKI, JIVKA A				
ART UNIT 2426		PAPER NUMBER		
MAIL DATE 12/10/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/518,783

**Applicant(s)**

YOSHIDA, NAKO

**Examiner**

JIVKA RABOVIANSKI

**Art Unit**

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07/31/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date 12/20/2004, 03/31/2008, 05/23/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_



### **DETAILED ACTION**

This office action is in response to applicant's response filed on July 31<sup>st</sup> 2008.

#### ***Status of Claims***

Claims 1, 4, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 have been amended.

Claim 9 has been cancelled.

Claims 1 – 8, 10 - 19 are pending in the Application.

#### ***Response to Arguments***

Applicant's arguments filed July 31<sup>st</sup> 2008 have been fully considered, but they are not persuasive. Therefore, the rejections made in the previous Office Action are maintained and restated, with changes as needed to address the amendments.

#### ***Priority***

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 – 8, 10 - 19** are rejected under 35 U.S.C. 102(e) as being unpatentable by Holtz et al. (hereinafter Holtz) (US Patent Number 6,760,916).

Regarding **claim 1**, Holtz discloses a transmission apparatus comprising:

first production means for producing a first content of a video signal and/or an audio signal (i.e. “media production”) (see column 6, lines 53-60) (see also column 7, lines 39-42);

second production means for producing a second content (i.e. “enhanced media”) (see column 7, lines 42-47) corresponding to the first content (see column 43, lines 57-59), the second content including script (e.g. with XML) (see column 8, lines 60-67) for outputting a graphical user interface (see column 41, lines 36-54) (see Figure 11), and the script includes a

description, for causing a reception apparatus to execute:

a process for producing use history information (see column 36, lines 54-67) (see also column 50, lines 23-26) including a predetermined content (see column 44, lines 6-9) in accordance with a use result (see column 36, lines 54-67) related to the use by a user of the first content in the reception apparatus (see column 46, lines 23-25) (see also column 46, lines 30-32) and a process for changing the graphical user interface based on the use history information (see Figures 11, 12, element 1108a) (see column 44, lines 6-8) so as to change a service to be provided with an operation to a user interface screen picture (see Figures 11 and/or 12), and sending means for providing, as a broadcast, a transmission output of the second content in combination together with the first content (see column 8, lines 23-41) (see also column 35, lines 16-24).

the style of the graphical user interface being varied according to a viewing history of the first content (the mode of the presented enhanced media and advertisements on the user screen is in response to the actual demands and behavioral patterns of the online viewer col. 18 lines 56 – 59; The segments, which make up the customized program, are automatically sequenced together with the linked advertisements in such a fashion that

the program appears to have been created for the user and presented in this mode on the user screen col. 12 –lines 66 – 67 – col. 13 lines 1 - 2.

Regarding **claim 2**, see analysis of claim 1. In addition, Holtz discloses the transmission apparatus according, wherein the first content is compressed and coded, and transmitted (see column 25, lines 60-67; column 26, lines 1-10).

Regarding **claim 3**, see analysis of claim 1. In addition, Holtz discloses the transmission apparatus wherein the second content is transmitted as data broadcast (see column 14, lines 1-30).

Regarding **claim 4**, Holtz discloses a reception apparatus comprising: Reception means (see column 7, lines 66-67; column 8, lines 1-12) for receiving first content including a video signal and/or an audio signal transmitted as a broadcast (see column 11, lines 45-56) and a second content (i.e. “enhanced media”) (see column 7, lines 42-47) corresponding to the first content, the second content including a script (e.g. with XML) including a description for causing the reception apparatus to execute:

A process for producing use history information (see column 36, lines 54-67) (see also column 50, lines 23-26) including a predetermined content (see column 44, lines 6-9) in accordance with a use result (e.g. selection of

a hyperlink) related to the use by a user of the first content in the reception apparatus (see column 46, lines 23-25) (see also column 46, lines 30-32) and a process for changing the graphical user interface based on the use history information (see Figures 11, 12, element 1108a) (see column 44, lines 6-8) so as to change a service to be provided with an operation to a user interface screen picture (see column 8, lines 23-41) (see Figures 11 and/or 12); and user interface forming means for forming a graphical user interface to be output together with a picture (see Figure 11, element 1102) as the first content in accordance with the script, for producing and storing the use result (see column 14, lines 19-31), and for executing, in accordance with the script, a process for changing the graphical user interface based on the use history information so as to change the service to be provided with the operation to the user interface screen picture (see column 13, lines 21-31).

the style of the graphical user interface being varied according to a viewing history of the first content (the mode of the presented enhanced media and advertisements on the user screen is in response to the actual demands and behavioral patterns of the online viewer col. 18 lines 56 – 59; The segments, which make up the customized program, are automatically



sequenced together with the linked advertisements in such a fashion that the program appears to have been created for the user and presented in this mode on the user screen col. 12 –lines 66 – 67 – col. 13 lines 1 - 2.

Regarding **claim 5**, see analysis of claim 4 and claim 2.

Regarding **claim 6**, see analysis of claim 4 and claim 3.

Regarding **claim 7**, see analysis of claim 4, the user is allowed to perform operations to the user interface picture (see column 39, lines 50-55) (see also column 50, lines 23-26).

Regarding **claim 8**, Holtz discloses the reception apparatus according to Claim 4, wherein a mark operation is performed on the selected one of the first content; and the graphical user interface changes in response to the mark operation (e.g. activating hyperlink) (see column 34, lines 40-61).

Regarding **claim 9**, see analysis of claim 4. In addition, Holtz discloses the graphical user interface changes in accordance with a viewing history of the first content (see column 39, lines 50-55) (see also column 50, lines 23-26).

Regarding **claim 10**, see analysis of claim 1 that includes all limitation of claim 10.

Regarding **claim 11**, Holtz discloses a reception apparatus comprising:

reception means (see column 7, lines 66-67; column 8, lines 1-12) for receiving first content including a video signal and/or an audio signal transmitted as a broadcast (see column 11, lines 45-56) and a second content (i.e. "enhanced media") (see column 7, lines 42-47) corresponding to the first content, the second content including a script (e.g. with XML) including a description for causing the reception apparatus to execute: interface forming means for forming a graphical user interface to be output together with a picture (see Figures 11 and 12, element 1102) as the first content in accordance with the script, for producing and storing the use result (see column 14, lines 19-31), and for executing, in accordance with the script, a process for changing the graphical user interface based on the use history information so as to change the service to be provided with the operation to the user interface screen picture (see column 13, lines 21-31) (see column 46, lines 23-25) (see also column 46, lines 30-32). (see also analysis of claim 4).

the style of the graphical user interface being varied according to a viewing history of the first content (the mode of the presented enhanced

media and advertisements on the user screen is in response to the actual demands and behavioral patterns of the online viewer col. 18 lines 56 – 59; The segments, which make up the customized program, are automatically sequenced together with the linked advertisements in such a fashion that the program appears to have been created for the user and presented in this mode on the user screen col. 12 –lines 66 – 67 – col. 13 lines 1 - 2.

Regarding **claim 12**, see analysis of claim 1. In addition Holtz discloses a process for changing a picture (see Figure 11, element 1108) (e.g. video commercial, see column 44, lines 55-67) (see also graphic banner (see column 34, lines 40-61), content in the graphical user interface based on the use history information.

Regarding **claim 13**, see analysis of claims 1 and 4.

Regarding **claim 14**, see analysis of claim 4.

Regarding **claim 15**, see analysis of claim 4.

Regarding **claims 16-19**, see analysis of claims 1 and 4.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

**FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

#### **Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jivka Rabovianski whose telephone number is (571) 270-1845. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVEK SRIVASTAVA can be reached on (571) 272-

7304. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jivka Rabovianski/

VIVEK SRIVASTAVA

November 26, 2008

/SPE/

/Vivek Srivastava/

Supervisory Patent Examiner, Art Unit 2426